IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

MONDAY, THE 2ND JULY 2007 / 11TH ASHADHA 1929

WP(C).No. 34512 of 2005(H)

OS.118/1982 OF MUNSIFF COURT,VARKALA.

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PETITIONER:

ABDUL SATHAR, SHERIN BUNGLOW,
KUDAVOOR VILLAGE, THIRUVANANTHAPURAM DISTRICT.

BY ADV. SRI.M.R.RAJESH.

RESPONDENTS:

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1. **KUMARAN BHASKARAN, CHARIKUVILA VEEDU,**
   NAVAIKULAM VILLAGE, THIRUVANANTHAPURAM DISTRICT.

2. **KUMARAN SREEDHARAN, CHARIKUVILA VEEDU,**
   NAVAIKULAM VILLAGE, THIRUVANANTHAPURAM DISTRICT.

3. **KUMARAN NANU, CHARIKUVILA VEEDU,**
   NAVAIKULAM VILLAGE, THIRUVNANTHAPURAM DISTRICT.

4. **KUMARAN LAKSHMI, CHARIKUVILA VEEDU,**
   NAVAIKULAM VILLAGE, THIRUVANANTHAPURAM DISTRICT.

BY ADV. SRI.SEBASTIAN DAVIS.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 02/07/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C). NO.34512/2005:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P.1: COPY OF THE AGREEMENT DTD. 11/08/1999 BETWEEN THE PETITIONER AND THE RESPONDENTS.

EXT.P.2: COPY OF THE ORDER DTD. 08/06/2004 IN I.A. NO. 490/04 IN O.S. NO. 34/2004 OF THE SUB COURT, ATTINGAL.

EXT.P.3: COPY OF THE E.A. NO. 127/04 IN E.P. NO. 22/1995 IN O.S. NO. 118/1982 ON THE FILE OF THE MUNSIFF COURT, VARKALA.

EXT.P.4: COPY OF THE OBJECTION TO EXT.P.3.

EXT.P.5: COPY OF THE ORDER IN E.A. NO. 127/04 IN E.P. NO. 22/1995 IN O.S. NO. 118/1982 ON THE FILE OF THE MUNSIFF COURT, VARKALA.

EXT.P.6: COPY OF THE DOCUMENT SCHEDULE DTD. 23/02/2005 IN O.S. NO. 118/1982 ON THE FILE OF THE MUNSIFF COURT, VARKALA.

RESPONDENT'S EXHIBITS: NIL.

//TRUE COPY//

prv.

PIUS C. KURIAKOSE,J.

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W.P.(C) No.34512 of 2005

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Dated: 2nd July, 2007

JUDGMENT

Notwithstanding the strenuous and fervent submissions of Mr.M.R.Rajesh, learned counsel for the petitioner which were all resisted by Mr.Sebastian Davis, learned counsel for the respondents, I am unable to agree with Mr.Rajesh who submits that Ext.P5 is vitiated to the extent of justifying interference by this court under the extra-ordinary supervisory jurisdiction under Article 227 of the Constitution. The learned Munsiff in Ext.P5 has stated that though the petitioner claims that the Sub Court under Ext.P2 has permitted him to agitate the issue before the execution court in a proceeding by filing appropriate application under Section 47, the petitioner did not produce even copy of the order of the Sub Court. The reasons for not producing the copy of the order are not far to seek because I am told that Ext.P2 has been confirmed by the District Judge in appeal and by this court in an earlier Writ Petition under Article 227. The learned Munsiff also noticed that the petitioner did not adduce any evidence for substantiating his claim. I do not find any reason for interfering with Ext.P5. Mr.Rajesh, counsel for the petitioner submits that the suit O.S.No.38/04 filed by the petitioner has been special listed for

trial to 19.7.2007. Considering the above submission, even as I confirm Ext.P5 order and dismiss the Writ Petition, there will be an order that the stay order presently granted will continue for another two months from today. The stay order will not continue beyond two months. It is open to the petitioner to make appropriate motions before the Sub Court which is dealing O.S.No.38/04 and facilitate final disposal of that suit in the meanwhile. The Writ Petition will stand dismissed subject to the above directions/observations. No costs.

srd **PIUS C.KURIAKOSE, JUDGE**